

# LEGISLATIVE AUDIT DIVISION

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## MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Jim Pellegrini, Deputy Legislative Auditor, Performance Audits

DATE: June 2001

RE: Follow-up Performance Audit  
Intensive Supervision Program and Pre-release Center Program  
Montana Department of Corrections

### **INTRODUCTION**

This memorandum describes the results of a follow-up review of performance audits of the Intensive Supervision Program (ISP) and Pre-release Center Program (PRC). Both programs are community-based corrections programs administered by the Community Corrections Division within the Department of Corrections (DOC). The report, issued in September 1998, concluded these programs are beneficial components to the corrections system. The report also contained recommendations to strengthen these programs.

The objective for this audit follow-up was to evaluate the implementation status of recommendations presented in the report. To meet our objectives, we interviewed department management and staff, local law enforcement officials, and reviewed agency records.

### **BACKGROUND**

The Intensive Supervision Program and Pre-release Center Program are designed to supervise and monitor adult felony offenders who would otherwise:

- Be sentenced to prison.
- Be returned to prison.
- Not be paroled.

Offenders must volunteer for placement in either program, and a local screening committee that includes DOC staff and representatives from the community must approve each offender recommended for placement in either program. Offenders accepted into the programs must comply with specific rules designed to minimize risks to the community and promote a crime-free lifestyle. Both programs require offenders be employed or enrolled in an approved educational program. The programs are highly structured, requiring offenders follow strict daily schedules approved by program staff and participate in rehabilitative treatment and programming. The programs monitor offenders using

frequent checks of schedules, random urinalysis testing for drug and alcohol use, and contacts with an offender's employer, family, and treatment providers. Offenders violating rules face immediate sanctions, which may include placement in prison.

Although both programs are designed for high-risk offenders and use similar supervision strategies, the department structured the programs to address different offender needs. ISP is based on more a traditional probation and parole model, which requires offenders live in an approved private residence. The program uses electronic monitoring and small caseloads to increase an officer's ability to verify offender compliance with schedules and rules.

Pre-release centers are operated by private nonprofit corporations. PRCs provide rehabilitative treatment and programming in a residential setting. Like ISP participants, residents must follow strict daily schedules, and PRC staff monitor resident activities to ensure compliance with schedules and rules.

### **SUMMARY**

The report contained eleven recommendations for improving the department's operation and management of these programs. Follow-up audit work indicates the department has worked to improve the programs' operations.

<b><u>Recommendation Status</u></b>	
Implemented	5
Implementing	2
Partially Implemented	4
Not Implemented	0
<u>Total</u>	<u>11</u>

### **CONCLUSION**

In the department's formal response to the audit report, they generally concurred with most of the audit recommendations. While the department initiated corrective actions to address audit recommendations, the follow-up review indicated some audit findings remain an issue or have reappeared. Follow-up work indicates the department had not allocated sufficient resources to assure full implementation of the prescribed corrective action plan or monitor program activities to verify continued compliance with the plan. Additionally, the department practices and documentation efforts did not fully reflect policy and procedure changes. The department has, however, initiated additional corrective action to address the identified findings.

### **RECOMMENDATION REVIEW**

The following sections provide a synopsis of audit findings, audit recommendations, and a description of the implementation status for each recommendation.

#### **Management Flexibility is Needed in ISP**

Program policy indicated ISP is a nine-month program, and the program's basic structure and criteria were consistent with programs established in other states. However, most regional ISP caseloads included participants who had been in the program for longer periods, some up to eighteen months.

Program records did not provide documentation of management approval for deviations from department policies. Limited management control over offender participation in ISP raised the potential for significant differences in officer caseload activities and maintaining offenders in higher-cost ISP placements longer than necessary.

Recommendation #1: We recommend the department establish ISP Handbook procedures to document deviation from formal program structure and/or eligibility requirements.

The department implemented this recommendation.

Policy now requires officers to inform and obtain management approval of offenders who remain in the program beyond normal program guidelines.

### **Screening Procedures for ISP Participants Can Be Improved**

Program policy requires local ISP screening committees approve an offender's placement in the program. Representatives from local law enforcement agencies typically represent community interests. Documentation of screening committee meetings was incomplete, or did not address treatment needs or conditions for supervision. In some instances, documentation did not indicate whether local law enforcement had participated in the screening process of some offenders. The screening process is critical to whether the program accepts an offender into the program and a record of an offender's movement through the criminal justice system.

Recommendation #2: We recommend the department verify regional compliance with DOC policy for ISP screening procedures and documentation.

The department implemented this recommendation.

Program documentation indicated regions have improved documentation. Additionally, we observed increased participation by community representatives. One region has included a representative from a crime victim assistance program on the local screening committee, in addition to law enforcement representatives. The department has indicated it may further review the offender screening process and evaluate potential for including more community representatives in selecting offenders for program participation.

### **The Department Can Improve Documentation of Offender Supervision Activities**

To reduce the risk to communities, the department established minimum supervision levels for ISP offenders. While audit observations suggested officers were supervising offenders in accordance with supervision standards, reviews of case file documentation did not fully demonstrate compliance. Factors affecting officer documentation of offender supervision included methods for documenting contact with offenders, different expectations for documenting supervision, and processes for management review of case file information.

Recommendation #3: We recommend the department develop a comprehensive methodology for written chronological entries, which ensures compliance with ISP supervision standards.

The department is implementing this recommendation.

The department initially completed implementation of the recommendation by designating a program lead person who was responsible for overall program operations, including development and implementation of a methodology for documenting supervision standards. A new methodology was implemented, and ISP officers said the new methodology had improved documentation and reduced officer administrative work.

Follow-up audit work identified inconsistencies between the documentation methodology and new supervision standards. Additionally, some files had limited or no documentation of supervision contacts with offenders. According to department management, the ISP lead person had been assigned other duties and was unable to fulfill duties of the position. The department has since assigned a new program lead person. Additionally, the department has stated it is enhancing the program's structure by:

- Updating and revising the ISP handbook to more clearly outline expectations of program staff.
- Establishing documentation requirements for officers in the revised officer handbook.
- Increasing management oversight of the program. The ISP lead person will conduct periodic audits of ISP operations at each location to monitor compliance with documentation requirements and other operational standards.
- Instituting periodic meetings for ISP officers to promote program improvements and increase consistency in program operations.

In summary, the department's approach may not only improve documentation of supervision activities, but may also enhance the department's ISP program operations discussed in following sections.

#### **Maintenance and Retention of Case File Documentation**

ISP offices throughout the state were not using standard forms and files to document offender activities. Differences included regional versions of offender supervision contracts, offender reporting forms, and filing systems. Additionally, program policies did not clearly identify, and ISP officers were unsure of, what documentation to retain or place in an offender's permanent files. We also noted some officers had difficulty finding information we requested.

Recommendation #4: We recommend the department formally define the case file documentation ISP officers are to use, maintain, and retain.

#### The department has partially implemented this recommendation.

The department has developed some standard forms. Follow-up work, however, indicated some offices continued to use forms developed at regional offices, or were unaware of or not using updated ISP contract forms. Officers also stated they have not received guidance on what forms need to be retained in an offender's permanent case file. Department managers said they are developing new standards for maintaining and retaining documentation, and the new lead person will monitor compliance with the new policies.

#### **The Department Needs to Draft Additional Rules Governing the Operation of PRCs**

Statute requires the department adopt operational rules relating to the custody of persons in department programs, as well as rules governing the siting, establishment, and expansion of PRCs. The department had not developed rules addressing these issues.

Recommendation #5: We recommend the department develop ARMs to comply with statutory requirements in sections 53-1-501 and 53-1-203, MCA.

The department has partially implemented this recommendation.

The department has adopted rules addressing establishment and expansion of PRCs. However, the department does not agree statute requires them to develop rules to address PRC operational activities as identified in the audit report. DOC contends section 2-4-102(2)(a)(ii), MCA exempts the department from the statutory requirement for activities related to the supervision and administration of adult and juvenile penal institutions. According to the department, implementing rules would allow offenders an opportunity to participate in the rule-making process, which is not appropriate for correctional programs. Also, PRCs have boards of directors who represent community interests. Department management also stated department policies and informal rules appropriately address PRC operations.

Our original recommendation that the department develop administrative rules to address statutory requirements still applies. Section 53-1-203, MCA, states: "The department of corrections shall adopt rules ... for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law." Section 53-1-501, MCA, states: "The department of corrections shall prescribe rules and procedures for the establishment of rates and charges to residents in any community correctional program that is under contract with the department of corrections and that provides room, board, or services or any combination of room, board, and services to residents of those facilities or programs."

#### **Contract Clarification of Resident Accounts at PRCs**

PRC residents are required to turn over all earned income to the PRC for tracking and financial management. PRCs place these funds in a centralized account known as a resident account. PRCs had different practices for managing these accounts. Some centers established accounts that accrued interest for each resident. Other centers allocated accrued interest for other center activities, or established accounts that did not accrue interest. We recommended the department address inconsistencies in accounting and reporting of inmate accounts.

Recommend #6: We recommend the department develop contract language to fully address statutory requirements relating to resident accounts

The department implemented this recommendation.

Contracts now specifically address payment of interest on inmate accounts. Four of the five PRCs maintain noninterest-bearing accounts for residents. One PRC provides an interest-bearing account, with accrued interest credited to a resident's account. We had no concern with this inconsistency, since earned interest on an account benefits residents.

#### **Approval of PRC Subcontractors**

Statute requires state contracts prohibit subcontracting or transfer of contract responsibilities without approval of the state (contracting) agency. Department contracts included the appropriate statutory language, but the department did not verify this contract requirement, and did not have procedures requiring formal approval of PRC subcontracts. Consequently, the department had no mechanism for gathering information from subcontracted service providers or evaluating the quality of services provided.

Recommendation #7: We recommend the department establish procedures for approval of services subcontracted by the PRCs as required by statute.

The department implemented this recommendation.

The department has developed contract-monitoring procedures to verify PRC compliance with this contract language.

The Department Should Increase Emphasis on Collecting Restitution for Offenders in ISP or PRC

Restitution is a payment by an offender to compensate victims for losses or costs resulting from an offender's criminal activity. The department had limited documentation of offender compliance with court-ordered payments, and in some instances the department was not enforcing statutory requirements for allocating offender payments to victims. For example, one ISP office allowed reduced or delayed restitution payments so offenders could pay a greater portion of electronic monitoring costs. Restitution payments by some PRC residents were not consistently occurring.

Recommendation #8: We recommend the department increase their emphasis on collection of restitution to ensure compliance with court judgements and statutory mandate.

The department has partially implemented this recommendation.

The department has also developed a method for manually tracking offender restitution payments, although follow-up audit work indicated officers are not consistently using this form. Additionally, the department has not developed a financial assessment tool for helping determine offender capabilities for making restitution payments.

The department is evaluating another option for increasing collection of court-ordered restitution. DOC implemented a pilot program in the Second Judicial District in coordination with the Department of Revenue (DOR) and district court judges. The pilot program gives DOR authority to determine payment arrangements, remit restitution payments to district courts, and offset income tax refunds and other warrants against outstanding restitution orders. The department is in the process of expanding this pilot program to other judicial districts. The department projects an 8.63 percent increase in restitution collections for fiscal year 2001. The department has set goals for increasing restitution collection by 20 percent in each of the next three fiscal years.

### **Supervision Fee Payments**

Offenders on ISP, like offenders on regular probation and parole supervision, are required to pay a monthly supervision fee. Statute set the supervision fee at \$10 per month, which was significantly less than the monthly costs for supervising ISP participants. However, the department was unable to modify supervision fees according to actual supervision costs or an offender's ability to pay the fee.

Recommendation #9: We recommend legislation be enacted to allow for flexibility to change offender supervision fees to more closely reflect the actual costs of supervision, especially for offenders participating in ISP.

The department implemented this recommendation.

The department sought and obtained legislation from the 1999 Legislature granting the department more flexibility in assessing supervision fees. Now, the department can assess supervision fees ranging from \$10 to \$30 per month. Department policy currently assesses supervision fees of \$20 per month for ISP offenders and \$15 per month for offenders on regular supervision. Another option presented to the department was assessing supervision fees according to an offender's ability to pay the fee. The department did not implement this option.

### **Assessment of Program Outcomes**

The department has expanded the ISP and PRC programs, in part, in response to rapidly increasing offender populations. The programs also provide less costly alternatives to prison. While responding to expansion of the correctional system, the department had not assessed whether the programs were meeting department objectives. Consequently, the department was unable to fully determine how programmatic changes could improve success of the programs.

Recommendation #10: We recommend the department establish measures to review operating procedures and more fully assess program and treatment success for ISP and PRCs.

The department has partially implemented this recommendation.

The department is in the process of developing and implementing a new management information system called PROFiles. Department management stated the new system would have increased capabilities for tracking and monitoring offender activities and program outcomes. The department has also included in its PRC contracts a requirement that PRCs coordinate outcome measures with the department. While the department has not established measurable objectives or outcomes, the director is proposing a survey of agency personnel to identify potential outcome measurements. Additionally, the department has previously expressed an interest in working with the legislative branch to address this issue.

### **Records Management and Processing**

Delays in processing inmate records affected inmate transfers or placements in appropriate facilities or programming. Causes for delays included:

- Limited resources for processing offender records.
- Not receiving timely judgements from district courts.
- Staff oversights in compiling and sending information to a state prison.

Since delays in processing offender information can affect inmate placements and ultimately increase costs, we recommended the department increase its oversight of institutional populations and improve coordination with other entities involved in the criminal justice system.

Recommendation #11: We recommend the department:

- A. Evaluate the records handling process for all department commitments to ensure timely establishment of parole eligibility and sentence discharge dates for PRC and ISP participants.
- B. Establish a dialogue with the district courts to encourage timely court processing of all sentencing records needed to develop and distribute parole eligibility and sentence discharge dates.
- C. Initiate a management oversight process for inmate populations to assure timely consideration of parole by the Board of Pardons and Parole.

The department is implementing this recommendation.

The department has provided additional information and instructions to regional staff when processing department commitments placed in community-based correctional programs. Additionally, department staff stated PROFiles should be easier to use, and may improve processing and accuracy of data entered.

The department has had annual meetings with district courts judges to address system and legal issues. According to department management, legal staff will also be meeting with district court judges following the 2001 session, at which time they can address concerns about delays in receiving court decisions.

One cause of system delays, particularly delays in determining parole eligibility dates for the Board of Pardons and Parole, was the large number of inmates in county jail holds. Typically, inmates on county jail hold status are pending transfer to a DOC facility, waiting for a prison bed to become available. This problem has been resolved with the additional beds available to DOC in the regional prisons and contract facilities.